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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|---------------------|
| 10/519,891 | 12/29/2004 | Takashi Yamamizu | 1141/73452 | 2719 |
| 23432 | 7590 | 11/01/2005 | EXAMINER | |
| COOPER & DUNHAM, LLP 1185 AVENUE OF THE AMERICAS NEW YORK, NY 10036 | | | | SHIPMAN, JEREMIAH E |
| | | ART UNIT | | PAPER NUMBER |
| | | | | 2859 |

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/519,891 | YAMAMIZU ET AL. | |
| | Examiner Jeremiah Shipman | Art Unit 2859 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 29 December 2004.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-9 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 29 December 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Asymmetric Support Structure for Vertical Field MRI.

Claim Objections

Claim 3 is objected to because of the following informalities: the precise meaning of the limitation "a shape curved toward outside" as recited in lines 2-3 is unclear. For instance, this limitation could mean a shape which bulges outward in the center (convex), or it could mean a shape which is narrow in the center but which curves toward the outside as it approaches the magnets (concave). Alternatively, it could mean a perfectly vertical column wherein the outer edge of the cross-section of the column curves in either a concave or convex fashion. Appropriate clarification is required.

Claims 4-9 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 5 recites the broad recitation "15 to 45 degrees", and the claim also recites "preferably 25 to 35 degrees" which is the narrower statement of the range/limitation.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Minas et al. (US Pub. No. 2002/0145426). Minas et al. disclose a magnetic resonance

imaging apparatus (Par 1) comprising a gantry including a pair of upper magnet and lower magnet arranged oppositely and concentrically in a vertical direction, sandwiching a measurement space to which an object to be examined is inserted (Par 33-34, Fig 1) and a pair of columns for supporting the upper magnet installed over the outer parts of the upper magnet and the lower magnet in the vertical direction (Par 34, lines 6-8), a bed on which the object is placed, including a top plate inserted into the measurement space (Par 3, Par 34 lines 8-10), wherein the pair of columns is oppositely arranged with respect to a central axis of the upper magnet and lower magnet (par 14, lines 4-6; par 34 lines 6-8) and a cross sectional area of one column of the pair of columns is made smaller than that of the other (par 14 lines 7-10; par 15 lines 6-8). Regarding claim 2, the width of the column with the small cross-sectional area in a direction perpendicular to a line connecting the centers of the pair of columns is $\frac{1}{2}$ or smaller of that of the other column (Par 15, lines 6-8; Fig 10).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Minas et al. in view of Chari et al. (US Patent No. 5,436,607). Minas et al. do not teach the pair of

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columns having a shape curved toward outside. Chari et al teach an open MRI magnet design in which the support **18** is curved toward the outside (Col 2, lines 48-49). It would have been obvious to a person of ordinary skill in the art at the time of the invention to apply this design feature of Chari et al to the support structure of Minas et al., in order to provide better access to the imaging volume (Chari et al., col 2, lines 28-32).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kaufman et al. (US Pat No 5,517,121) discloses a two-column open MRI structure wherein the patient support platform is angled relative to the support columns. Damadian et al. (US 6,445,186) discuss a bed platform that is mobile.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremiah Shipman whose telephone number is (571)272-8439. The examiner can normally be reached on Monday-Friday, 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (571)272-2245. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JS

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